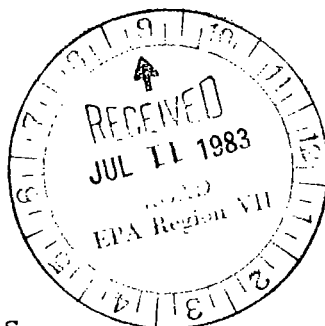




UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

JUL 07 1983



Honorable Dan Glickman
House of Representatives
Washington, D.C. 20515

Dear Mr. Glickman:

This is in reply to your letter of June 15, 1983, on behalf of Vulcan Materials Company, requesting an extension of the sixty-day comment period for EPA's proposed rule (under Subtitle C of the Resource Conservation and Recovery Act (RCRA)) on wastes containing chlorinated dioxins and -dibenzofurans. This proposal was published in the Federal Register on April 4, 1983. After careful consideration of several similar requests, EPA decided not to extend the comment period.

The Agency is convinced that these wastes (i.e., chlorinated dioxin and -dibenzofuran-containing wastes) must be controlled under the hazardous waste provisions of RCRA as soon as possible in order to control future pollution by these dangerous toxic contaminants. Bills pending in both the Senate and the House would also place the Agency on an expedited schedule to list these wastes as hazardous. It would not be in keeping with our determination regarding the urgency of this proposal if we extended this rulemaking effort without good cause. We do not believe that good cause has been demonstrated.

During a meeting on May 5, 1983, between representatives of EPA and the American Wood Preservers Institute (attended by a representative of Vulcan Materials Company), industry representative apprised EPA of a current review of a bioassay study conducted by N.C.I. which, I believe, is the study to which your letter refers. With respect to the additional data which Vulcan expects to provide, let me assure you that EPA will review additional material submitted after the close of the formal comment period, to the extent that time and resources permit.

In addition, EPA's intention to list these wastes has been public for at least a year (see H.R. Rep. No. 97-570, 97th Cong. 2nd Sess. 23 (1982) showing a schedule on wastes EPA announced its intention of listing, including those at issue here). The trade and business literature, as far back as last September, also reported EPA's intentions regarding this proposed rule.

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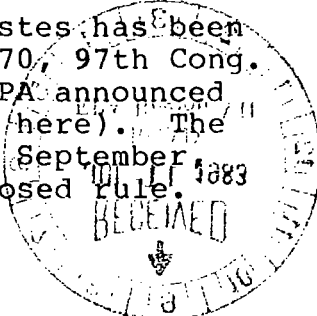
Superfund

To: Morby

OFFICE OF
SOLID WASTE AND EMERGENCY RESPONSE

FILE: WEG 6.3.7.1

RE: WCBLG0341

Egan -
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REG-7

Since we believe no useful purpose would be served by extending the comment period, and because prolongation of this rulemaking would not serve the best interests of the public at large, the Agency sees no justification at this time for extension of the comment period on these listings.

Sincerely yours,

/s/signed/ Lee M. Thomas

Lee M. Thomas
Acting Assistant Administrator

DAN GLICKMAN
FOURTH DISTRICT-KANSAS

COMMITTEES:
AGRICULTURE
JUDICIARY
SCIENCE AND TECHNOLOGY

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LEGISLATIVE STAFF DIRECTOR



CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515

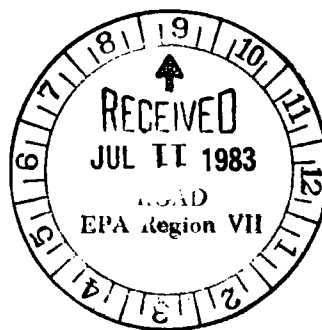
June 15, 1983

2435 RAYBURN BUILDING
WASHINGTON, D.C. 20515
(202) 225-6216

U.S. COURT HOUSE
Box 403—Room 224
WICHITA, KANSAS 67201
(316) 262-8396

407 WOLCOTT BUILDING
201 NORTH MAIN
HUTCHINSON, KANSAS 67501
(316) 669-9011

Director, William Ruckelshaus
Office of Solid Waste(WH0562)
U.S. ENVIRONMENTAL PROTECTION AGENCY
401 M Street, S.W.
Washington, D.C. 20460



SW
R
AP
R7
LC
RLC
L.T.

Dear William:

This letter is in behalf of Vulcan Materials Company who is requesting a 90-day extension date on the original 60-day comment period.

On April 4, 1983, the EPA proposed to amend the RCRA regulations by listing as acutely hazardous, wastes from the production of PCP, pentachlorophenol(48 Fed. Reg. 14514).

L
It is Vulcan's belief that they may be able to refute the EPA Science Advisory Board's findings that PCP is a potential human carcinogen. Due to an indepth study being conducted by Vulcan, the company finds it impossible to meet the June 3 comment period deadline. Enclosed is a letter from Vulcan Chemical Director, James Boyd which describes the circumstances in detail.

I hope that the EPA will consider extending the comment period date in Vulcan's behalf. This would give them the necessary time to compile their data for presentation.

With best regards

Dan Glickman
DAN GLICKMAN
Member of Congress

DG:jd

6/20/83

April 27, 1983

PCP in its final rule of November 25, 1980, (45 Fed. Reg. 78532). We are currently studying the basis of the current proposal, i.e., the allegation that the two hexachlorodibenzo-p-dioxins are "among the most potent animal carcinogens tested," (p. 14515/2). We believe there is evidence which would refute this allegation and are currently in the process of assembling this evidence.

Analytical Methodology

Since the issue of chlorinated dibenzofurans has been only marginally addressed in previous EPA regulatory actions concerning PCP, it is necessary to review existing analytical data to determine whether or not our product contains this contaminant at "levels sufficient to sustain regulatory concern."^{1 & 2}

1

We believe it is incumbent upon the Agency to define "levels sufficient to sustain regulatory concern" for both CDDs and CDFs. Presently, such levels could extend downward to their limits of detection which also are not specified. As part of this action, the Agency must also establish validated limits of quantitation for the CDDs and CDFs.

2

We believe that the "level sufficient to sustain regulatory concern" must take into consideration the fact that PCP itself is a toxic substance and as such is handled by its users in a manner which would minimize their exposure to any contaminants in the product.

MAY 30 1983

Vulcan Materials Company

CHEMICALS DIVISION / P. O. BOX 12283 • WICHITA, KANSAS 67277 • TELEPHONE 316 524-4211 • TELEX NO. 417 432 • TWX 910 241-8918

JAMES M. BOYD
PLANT MANAGER

May 18, 1983

REC # 39039
INCHES 2.20

The Honorable Dan Glickman
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Glickman:

Wichita
JH
DATE MAILED

Vulcan Chemicals is one of two U.S. producers of pentachlorophenol, PCP. This product, manufactured at our Wichita facility, is a registered pesticide and is widely used for the treatment and preservation of wood and wood products. On April 14, 1983, EPA proposed to amend the RCRA regulations by listing as actually hazardous, wastes from the production of PCP, as well as discarded unused formulations of this product (48 Fed. Reg. 14514).

Under 40 CFR 261.33(f), PCP is currently listed as a hazardous waste when discarded. Since PCP is an economic poison, this designation is reasonable. However, the effect of the current proposal would subject designated PCP wastes to the 1 kg/month small generator limitation under Section 261.5(e). Further, the current proposal would restrict disposal of these wastes to only fully permitted hazardous waste management facilities, and interim status facilities under 40 CFR 265 could not accept them. These actions would have a substantial impact on customer use of the product and may adversely affect this chemical as a commercial product.

Vulcan and the American Wood Preservers Institute have filed petitions for an extension of the 60-day comment period. The AWPI petition has already been denied, and we expect the Agency to rule on Vulcan's petition shortly. As described below, the requested extension of the comment period is necessary for our development of meaningful comments. A copy of our petition is attached.

The primary issue is the EPA's basis for listing PCP production wastes and discarded PCP formulations as acutely hazardous wastes. Included in the current proposal are certain chlorinated phenols and their chlorophenoxy derivatives which contain 2,3,7,8-tetrachlorodibenzo-p-dioxin, TCDD, and 2,3,7,8-tetrachlorodibenzofuran, TCDF. To the best of our knowledge, PCP does not contain either of these contaminants. This position has been supported by an EPA Science Advisory Board review of this product and the findings contained in the EPA's RPAR support document.

PCP does, however, contain trace levels of hexachlorodibenzo-p-dioxins. Regarding these contaminants, the proposal states, "TCDD and two HxCDD isomers are among the most potent animal carcinogens tested" (p. 14515). Further, it is stated, "Since each of these substances are carcinogenic in well-conducted tests in both rats and mice, they are also considered by the Agency to be potential human carcinogens."

The Honorable Dan Glickman
May 18, 1983, Page 2

We do not believe either statement, relative to the HxCDD's, is supportable in fact. We have retained Dr. Robert Squire as a consultant pathologist to review the NCI bioassay on mixed HxCDD isomers. (Dr. Squire is an associate professor at Johns Hopkins University School of Medicine and was formerly head of the Tumor Pathology Section at NCI). Based on the data contained in the NCI technical report, Dr. Squire has indicated that, at most, the mixed HxCDD isomers are weakly carcinogenic. To fully evaluate the bioassay, it will be necessary for Dr. Squire to reread the liver section slides for approximately 1,200 animals. It is not possible to complete this task prior to the June 3 expiration of the comment period.

Under the auspices of the AWPI, an epidemiological study of workers exposed to PCP is being conducted, and this study is in its final stages. It is very unlikely, however, that the data can be compiled into report form in time to meet the June 3 deadline.

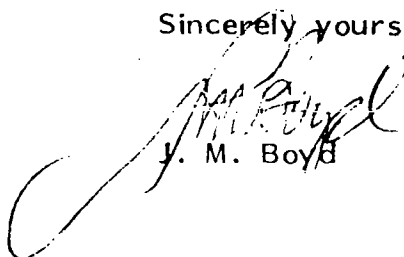
Another issue that must be resolved before we can complete our comments is the presence of hexachlorodibenzofurans in our product. Vulcan's present analytical capability is not sufficient to identify or measure any HxCDF's which might be present. We have sent preliminary samples of our product to Dr. Tiernan, Wright State University, for analysis. Dr. Tiernan might be able to complete his analysis by June 3, but this is uncertain.

Since we recognize that the Agency is under pressure to regulate the disposal of TCDD, we requested, at a May 6 meeting with EPA staff, that the PCP issue be handled separately from those chlorophenols and chlorophenoxy derivatives which contain TCDD. The staff response was not encouraging.

Therefore, we would be most appreciative if your staff would intercede on our behalf regarding our request for an extension of the comment period.

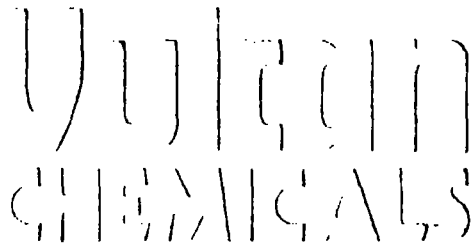
Should further information be needed, please contact me or T. A. Robinson in our Birmingham office.

Sincerely yours,



J. M. Boyd

JMB:bl



Thomas A. Robinson, PhD
Director, Environmental Affairs

April 27, 1983

Docket Clerk
Office of Solid Waste
(WH-562)
U.S. ENVIRONMENTAL
PROTECTION AGENCY
401 M Street, S.W.
Washington, DC 20460

Gentlemen:

Section 3001/Dioxin
Request for Extension of Comment Period

As one of two U.S. producers of pentachlorophenol, Vulcan Chemicals is vitally concerned with the proposed rule, as published at 48 Fed. Reg. 14514, April 4, 1983, which would classify as acutely hazardous, wastes from the production of pentachlorophenol, PCP, as well as discarded, unused pesticide formulations containing this product.

Acutely Hazardous Designation

This proposed action is surprising insofar as the Agency had previously removed the acutely hazardous designation from

April 27, 1983

It may be necessary to undertake an analytical method development program since the method disclosed in the current proposal deals primarily with the analysis of TCDD and TCDF. This method may require modification and validation to provide for the broader analysis of CDDs and CDFs. The current proposal further indicates that standards are presently not available for the CDD and CDF congeners and relies on the use of certain TCDD isomers as surrogate standards. This raises a serious question as to Vulcan Chemicals' ability to comply with any future designated level of regulatory concern because analytical instrument response factors will vary from congener to congener and may well vary within a given homolog.³

Interim Status

The current proposal would prohibit the management and disposal of certain PCP wastes in hazardous waste facilities having interim status under 40 CFR Part 265. However, the proposal is ambiguous and obscure in the designation of these wastes, leaving the reader uncertain as to whether certain

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For information on a similar issue in the analysis of PCB congeners, see Docket Number: OPTS-62017A, Support Documents and Reports, 47 Fed. Reg. 46980, October 21, 1982.

April 27, 1983

waste streams are included or exempted. Were the current proposal in effect today, Vulcan Chemicals might be forced to terminate its PCP operations, even though we have been disposing of PCP process wastes under state permits for many years. Consequently, we have not yet fully assessed the impact of this rulemaking on our future operations.

Associated Industry

Although the current proposal does not apply to the users of our product, i.e., the wood preservers, the designation of PCP wastes as acutely hazardous portends the application of a similar designation to wastes from the wood preserving industry. This factor must be taken into consideration by the Agency. Similarly the economic impact on the wood preserving industry must necessarily be included in the regulatory impact analysis of the current proposal since the fate of both the production and the use of PCP are related to designation of PCP wastes as acutely hazardous.

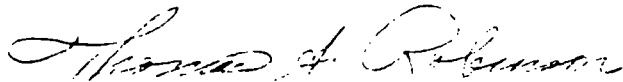
April 27, 1983

Extension of Comment Period

Due to the number and complexity of the issues raised by the current proposal, we request, as a minimum, a 90-day extension of the comment period.

Respectfully submitted,

VULCAN CHEMICALS



Thomas A. Robinson

TAR/dys

cc: Mr. Lee Verstandig
Acting Administration

01/14/83

EPA-ARWM/WMBR

JUL 15 1983

Region VII K.C., MO